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In re application of
Masao Komai et al..
Serial No. 09/743,849
Filed: March 08, 2001
For: RESIN COATED STEEL SHEET CARTRIDGE CAP
AND CARTRIDGE BARREL USING IT

DECISION ON
PETITION

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. 1.181(a), filed September 10, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of August 24, 2004 for failure to timely file a proper reply to the Office letter mailed on December 29, 2003, be withdrawn since the applicants did timely file a Request for Continued Examination on April 04, 2003.

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's properly filed a Request for Continued Examination(RCE) on April 04, 2004. A request for an RCE was filed April 04, 2004 being located within the file contents. A Notice of Improper Request for Continued Examination was mailed April 16, 2004 as no response to the Office action of December 29, 2004 was submitted along with the RCE. However, under 37 CFR 1.114 if a final office action is outstanding any amendments filed after the final office action may be considered as a proper submission. As applicant filed an amendment on February 20, 2004 after the Final action of December 29, 2003; the Notice of Improper Request for Continued Examination was improper. Thus, the Request for Continued Examination filed April 04, 2004 is proper.

Accordingly any holding of abandonment for failure to timely file a proper reply to the Office letter mailed on December 29, 2003 is hereby vacated and the application is returned to pending status. The application shall be forwarded for processing and entry of the Request for Continued Examination of April 04, 2004 and the amendment filed February 20, 2004.

The Petition is **GRANTED**.



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